

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re: VOLKSWAGEN
“CLEAN DIESEL” CASES /

No. 15-13360
Hon. Gerald E. Rosen

ORDER APPOINTING THE HONORABLE LAYN R. PHILLIPS AND
THE HONORABLE STEVEN W. RHODES AS MASTERS
FOR EXPEDITED SETTLEMENT NEGOTIATIONS

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on October 22, 2015

PRESENT: Honorable Gerald E. Rosen
United States District Chief Judge

Based upon the large number of parties involved and the overall complexity of this litigation, and after discussing the matter with Plaintiffs’ Interim Coordinating Class Counsel and counsel for Defendants at a Status Conference held on October 14, 2015, as well as in numerous telephone conferences,

NOW, THEREFORE, IT IS HEREBY ORDERED that:

In accordance with Federal Rule of Civil Procedure 53, the Honorable Layn R. Phillips and the Honorable Steven W. Rhodes are hereby appointed as Masters for the purpose of facilitating expedited settlement negotiations between the Plaintiffs and all Defendants. In their roles as Masters, Judges Phillips and Rhodes are directed to proceed with all reasonable diligence in facilitating these negotiations, in the manner and at the times and locations they deem appropriate.

For each settlement negotiation session, Judges Phillips and Rhodes shall have the authority to establish the negotiation process, including the submission of documents, the attendance of parties with authority to settle, the procedure governing the settlement negotiations, and the schedule for the negotiations.

All proceedings, discussions, and writings incident to these settlement negotiations shall be privileged and confidential and shall not be disclosed, filed or placed in evidence.

Defendants Volkswagen AG and Audi AG are directed to participate in these expedited settlement negotiations but may proceed without prejudice to their right to later raise any defenses to service of process or jurisdiction.

Judges Phillips and Rhodes may communicate *ex parte* with any party or the Court, at their discretion. Judges Phillips and Rhodes, in their discretion, may impose non-contempt sanctions under Rule 53(c)(2) and may, where they deem necessary, recommend contempt proceedings to the Court. They may also conduct any discovery-related proceedings and any evidentiary hearings that they deem necessary to facilitate settlement or to resolve any issues that arise in the settlement negotiations.

As Masters appointed under this Order, Judges Phillips and Rhodes shall function as quasi-judicial officers under the authority of the Court, and are, therefore, immune from suit. Neither Judge Phillips nor Judge Rhodes shall be called as a witness.

Judges Phillips and Rhodes shall be compensated by the Plaintiffs and the

Defendants in accordance with rates to be determined by Judges Phillips and Rhodes following their discussion of this matter with the parties. The Plaintiffs shall pay half of the Masters' fees and expenses, and the Defendants shall collectively pay the other half of these fees and expenses. The right to entertain motions seeking redistribution of these fees and expenses following the entry of judgment in this matter shall be reserved to the then-presiding court.

Finally, in accordance with Rule 53(b)(1), the parties shall within **seven (7) days** of the date of this Order, file and serve any objections they might have to the appointment of Judges Phillips and Rhodes as Masters or any other terms of this Order.

SO ORDERED.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: October 22, 2015

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on October 22, 2015, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5135